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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,726	03/19/2004	Terry A. Overby	CEL-128	2725
23508	7590	03/08/2006	EXAMINER	
LUNDEEN & DICKINSON, LLP PO BOX 131144 HOUSTON, TX 77219-1144				HOLLIDAY, JAIME MICHELE
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary	Application No.	Applicant(s)	
	10/708,726	OVERBY, TERRY A.	
	Examiner	Art Unit	
	Jaime M. Holliday	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 December 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
 - 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) Claim(s) 13-28 is/are allowed.
- 6) Claim(s) 7-12 and 29-33 is/are rejected.
- 7) Claim(s) 34 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed December 20, 2005 with respect to **claims 7-12 and 14** on pages 18-19 and 23-24 have been fully considered but they are not persuasive.

In the present application, Applicant basically argues that reference Carroll teaches away from reference Moles et al. and the present application.

The Examiner respectfully disagrees with Applicant's argument, because the present invention and both references teach provisioning of wireless devices (Moles et al., abstract and Carroll, abstract).

2. Applicant's arguments filed December 20, 2005 with respect to **claims 7-12 and 14-15** on pages 19-22 have been fully considered but they are not persuasive.

In the present application, Applicant basically argues that references Carroll and Moles et al. teach "service provisioning" while the present invention teaches "production provisioning."

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "production provisioning") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner respectfully disagrees with Applicant's argument, because Applicant claims "provisioning of radiotelephone handset units." Moles et al. discuss a

service provisioning system for use in a wireless network comprising a provisioning controller **305** that operates under the control of provisioning server application program **315** to provide provisioning services for wireless network **100**, and creates MS **112** service provisioning file **330**. Therefore Moles et al. reads on the limitation of "automated method of provisioning radiotelephone handset units." Carroll discusses a system and method that efficiently and securely perform provisioning of cellular telephones and other wireless communication devices. Therefore, Carroll reads on the limitation of "automated method of provisioning radiotelephone handset units." Both references disclose the limitation of "provisioning."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Moles et al. (Pub # U.S. 2003/0162533 A1)** in view of **Carroll (U.S. Patent # 6,487,403 B2)**, and in further view of **Tordera (U.S. Patent # 6,889,058 B2)**.

Consider **claim 7**, Moles et al. clearly show and disclose a service provisioning system for use in a wireless network comprising a provisioning controller **305** that operates under the control of provisioning server application

program **315** to provide provisioning services for wireless network **100**, and creates MS **112** service provisioning file **330**, reading on the claimed “build request,” in response to a provisioning request for the mobile station (MS). The service provisioning file comprises provisioning data used to configure the first mobile station to communicate with the wireless network. The service provisioning system further comprises a database capable of storing the service provisioning file, which further comprises a mobile station service provisioning program. The provisioning controller is further capable of retrieving the service provisioning file from the database and transmitting the service provisioning file to the first mobile station. Memory **460**, in the mobile station, also stores downloaded service provisioning (prov.) file **470** and mobile station configuration data file **475**, reading on the claimed “automated method of provisioning radiotelephone handset units, comprising: generating a build request comprising a radiotelephone handset specification and provisioning and instruction data for the specified handset; storing the build request in a memory storage medium in communication with a computerized provisioning system; retrieving data from the build request; and, automatically transferring the provisioning data to memory storage of the connected handset in accordance with the instruction data,” (abstract, figure 3, 4 and 5, paragraphs 19, 20, 57 and 67).

However, Moles et al. do not specifically disclose that the provisioning controller connects to the mobile station, reading on the claimed “handset,” and that at the completion of the transmission of the service provisioning file, reading

on the claimed “build request,” the mobile station is disconnected from the service provisioning system.

In the same field of endeavor, Carroll clearly shows and discloses a system and method that efficiently and securely perform provisioning of cellular telephones and other wireless communication devices. System processing for provisioning a wireless device according to the present invention is carried out by a program executed by the computer **516**, but requires human intervention at some points; the WUPD **306** (Wireless Universal Provisioning Device) prompts a sales agent or operator to enter the type of device being provisioned. The sales agent/operator targets the cellular telephone **308** to be activated. This can be done by aiming the antenna of the transceiver **514** to the cellular telephone, or by using a clip-on antenna to physically connect the WUPD's transceiver antenna to the cellular telephone's antenna, reading on the claimed “connecting the provisioning system to a handset in accordance with the build request specification,” (figure 5 and 6, column 3 lines 62-64, column 6 line 53- column 7 line 4). After the WUPD transfers the necessary provisioning information to the target telephone using the telephone's air interface protocol, both the target cellular telephone and the WUPD indicate on their respective displays that the provisioning operation is complete after sending notification signals to each other, reading on the claimed “disconnecting the provisioned handset from the provisioning system,” (figure 6, column 7 lines 28-30 and 44-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have to include the steps of targeting the cellular telephone to be provisioned, reading on the claimed "connecting the provisioning system to a handset," and indicating completion of the provisioning operation, reading on the claimed "disconnecting the provisioned handset from the provisioning system," as taught by Carroll in the system of Moles et al. in order to provide an efficient provisioning system for mobile stations.

However, Moles et al., as modified by Carroll, do not specifically disclose that the service provisioning system has a universal connector.

In the same field of endeavor, Tordera clearly shows and discloses a system **10**, that includes a communication interface device **12** engageable with a user terminal **14** potentially having access to a computer program product **15** for establishing wireless communication between the terminal **14** and a base station **16** of a wireless network **18**, reading on the claimed "provisioning radiotelephone handsets," (fig. 5, col. 3 lines 10-15). Interface device can include a first computer communication interface component, such as a PCMCIA card **20**, which defines a first interface format. Also, the device includes a second computer communication interface component such as a universal serial bus (USB) connector **22**, which defines a second interface format, reading on the claimed "computerized system having a universal connector," (fig. 1, col. 3 lines 28-35). The USB "A" plug **24** can be engaged with a USB receptacle of the user terminal to establish wireless communication between the user terminal and the

base station using the second interface format, reading on the claimed "connecting the universal connector of the provisioning system to a handset," (col. 4 lines 5-8).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a universal serial bus connector, so that user is not required to know the type of operating system used by the terminal, reading on the claimed "universal connector," (col. 2 lines 19-21) as taught by Tordera in the system of Moles et al., as modified by Carroll, in order to provide an efficient provisioning system for mobile stations.

5. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Moles et al. (Pub # U.S. 2003/0162533 A1)** and **Carroll (U.S. Patent # 6,487,403 B2)** in view of **Tordera (U.S. Patent # 6,889,058 B2)**, and in further view of **Piosenka et al. (U.S. Patent # 5,926,756)**.

Consider **claim 8**, and as applied to **claim 7 above**, Moles et al., as modified by Carroll, clearly show and disclose the claimed invention except that the service provisioning file, reading on the claimed "build request," is generated and stored on a workstation networked to the provisioning system.

In the same field of endeavor, Piosenka et al. clearly show and disclose a method and system that programs a PED (programmable electronic device) such as a cellular telephone via the use of a personal computer. The present invention allows users of PEDs to use personal computers (PC's), which include

the necessary operating system, processor, memory, display, keyboard and I/O ports necessary for the invention, to input data needed to program PEDs and means to load the PED programs into the PED, reading on the claimed "generating and storing are performed on a workstation networked with said computerized provisioning system," (abstract, column 2 lines 52-57 and column 3 lines 45-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to input data to program a cellular telephone, reading on the claimed "provisioning radiotelephone handset units," on a computer as taught by Piosenka et al. in the system of Moles et al. and Carroll, as modified by Tordera, in order to provide an efficient provisioning system for mobile stations.

6. **Claims 9-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Moles et al. (Pub # U.S. 2003/0162533 A1)** and **Carroll (U.S. Patent # 6,487,403 B2)** in view of **Tordera (U.S. Patent # 6,889,058 B2)**, and in further view of **Lipsit (U.S. Patent # 5,974,311)**.

Consider **claim 9**, and as applied to **claim 7 above**, Moles et al., as modified by Carroll, clearly show and disclose the claimed invention except the details that comprise the build request generation.

In the same field of endeavor, Lipsit clearly shows and discloses a method and apparatus for programming a cellular telephone with activation parameters,

reading on the claimed “build request,” in which the cellular telephone to be programmed is connected to a computer via a communications interface. The computer determines the activation parameters based on the inputted programming information, and transmits the activation parameters to the telephone for storage in the cellular telephone memory. The user inputted programming information may include the cellular telephone type reading on the claimed “build request generation comprises selecting a handset manufacturer's model number,” (abstract, column 2 lines 49-51 and 56-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine activation parameters by using the cellular telephone type, reading on the claimed “handset manufacturer's model number,” taught by Lipsit in the system of Moles et al. and Carroll, as modified by Tordera, in order to provide an efficient provisioning system for mobile stations.

Consider **claim 10**, and **as applied to claim 9 above**, the combination of Moles et al., as modified by Carroll, and Lipsit clearly show and disclose the claimed invention except that the build request generation comprises entering Service Provider Codes. The examiner takes official notice that it is well known in the art that Service Provider Codes could be used to generate a build request to provision a radiotelephone handset unit.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Service Provider Codes to

generate activation parameters, reading on the claimed “build request,” in order to successfully implement the steps of the method associated with a provisioning system.

Consider **claim 11**, the combination of Moles et al., as modified by Carroll, and Lipsit disclose the claimed invention **as applied to claim 9 above**, and in addition, Carroll further discloses that provisioning information, including an authentication key, is transferred by the WUPD via a wireless interface, reading on the claimed “build request generation further comprises entering Authentication Keys,” (abstract).

Consider **claim 12**, and **as applied to claim 7 above**, Moles et al., as modified by Carroll, clearly show and disclose the claimed invention except the details that comprise the data retrieval.

In the same field of endeavor, Lipsit clearly shows and discloses a method and apparatus for programming a cellular telephone with activation parameters, reading on the claimed “build request,” in which the cellular telephone to be programmed is connected to a computer via a communications interface. The computer determines the activation parameters based on the inputted programming information, and transmits the activation parameters to the telephone for storage in the cellular telephone memory. The user enters a cellular telephone type in the area **404** of the user interface **400**. A picture of the telephone selected by the user is displayed in area **408** of the user interface. When the user selects a telephone type the appropriate graphics file is accessed,

reading on the claimed “data retrieval comprises displaying an image of the handset model,” (abstract, figures 3A and 4, column 2 lines 56-60 and column 5 lines 40-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display a picture of a selected telephone type as taught by Lipsit in the system of Moles et al. and Carroll, as modified by Tordera, in order to provide an efficient provisioning system for mobile stations.

7. **Claims 29-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Moles et al. (Pub # U.S. 2003/0162533 A1)** in view of **Tordera (U.S. Patent # 6,889,058 B2)**.

Consider **claim 29**, Moles et al. clearly show and disclose a service provisioning system for use in a wireless network comprising a provisioning controller that operates under the control of provisioning server application program to provide provisioning services for wireless network. The service provisioning system further comprises a database capable of storing the service provisioning file, which further comprises a mobile station service provisioning program. The provisioning controller is further capable of retrieving the service provisioning file from the database and transmitting the service provisioning file to the first mobile station. Memory, in the mobile station, also stores downloaded service provisioning (prov.) file and mobile station configuration data file, reading

on the claimed "method for provisioning radiotelephone handset units, comprising: computer in communication with a memory storage medium containing provisioning and instruction data for the radiotelephone handset; and automatically transferring provisioning data to handset memory storage in accordance with the instruction data," (abstract, figure 3, 4 and 5, paragraphs 19, 20, 57 and 67).

However, Moles et al. do not specifically disclose that the service provisioning system has a universal connector.

In the same field of endeavor, Tordera clearly shows and discloses a system, that includes a communication interface device engageable with a user terminal potentially having access to a computer program product for establishing wireless communication between the terminal and a base station of a wireless network, reading on the claimed "provisioning radiotelephone handset units," (fig. 5, col. 3 lines 10-15). Interface device can include a first computer communication interface component, such as a PCMCIA card, which defines a first interface format. Also, the device includes a second computer communication interface component such as a universal serial bus (USB) connector, which defines a second interface format (fig. 1, col. 3 lines 28-35). The USB "A" plug can be engaged with a USB receptacle of the user terminal to establish wireless communication between the user terminal and the base station using the second interface format. The user terminal can determine whether the interface device is engaged with the terminal. If it is determined that the PCMCIA

card has been engaged with the terminal, a PCMCIA software driver module is invoked. On the other hand, if it is determined that the device is engaged with the terminal via another connection (e.g., USB), then the appropriate software driver module is invoked, reading on the claimed "method for provisioning radiotelephone handset units of varying model, manufacturer, and platform, comprising: connecting a radiotelephone handset to a universal connector interface having at least one universal connector adapted for connection to radiotelephone handsets having different specifications; operably connecting the universal connector interface to a computer; and executing software for verifying connection of the connected radiotelephone handset," (col. 4 lines 5-8, lines 50-57).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a universal serial bus connector, so that user is not required to know the type of operating system used by the terminal, reading on the claimed "universal connector," (col. 2 lines 19-21) as taught by Tordera in the system of Moles et al., in order to provide an efficient provisioning system for mobile stations.

Consider **claim 30**, Moles et al., as modified by Tordera, disclose the claimed invention **as applied to claim 29 above**, and in addition, Moles et al. further disclose that the service provisioning system creates MS service provisioning file, reading on the claimed "build request," in response to a provisioning request for the mobile station (MS). The service provisioning file

comprises provisioning data used to configure the first mobile station to communicate with the wireless network, reading on the claimed "generating a plurality of build requests comprising radiotelephone handset specification data and provisioning and instruction data for each specified handset," (paragraphs 19, 20 and 57).

Consider **claim 31**, Moles et al., as modified by Tordera, disclose the claimed invention **as applied to claim 30 above**, and in addition, Moles et al. further disclose that the service provisioning system further comprises a database capable of storing the service provisioning file, which further comprises a mobile station service provisioning program, reading on the claimed "storing the build requests in the memory storage medium," (paragraph 19).

Consider **claim 32**, Moles et al., as modified by Tordero, disclose the claimed invention **as applied to claim 31 above**, and in addition, Moles et al. further disclose that the provisioning controller is further capable of retrieving the service provisioning file from the database and transmitting the service provisioning file to the first mobile station, reading on the claimed "selecting an available build request from the memory storage medium," (paragraph 19).

8. **Claim 33** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of **Moles et al. (Pub # U.S. 2003/0162533 A1)** and **Carroll (U.S. Patent # 6,487,403 B2)** in view of **Tordera (U.S. Patent # 6,889,058 B2)**, and in further view of **Lipsit (U.S. Patent # 5,974,311)**.

Consider **claim 33**, and **as applied to claim 32 above**, the combination of Moles et al. and Carroll, as modified by Tordera, clearly show and disclose the claimed invention except that the provisioning file is displayed.

In the same field of endeavor, Lipsit clearly shows and discloses a method and apparatus for programming a cellular telephone with activation parameters, reading on the claimed “build request,” in which the cellular telephone to be programmed is connected to a computer via a communications interface. The computer determines the activation parameters based on the inputted programming information, and transmits the activation parameters to the telephone for storage in the cellular telephone memory. The user enters a cellular telephone type in the area **404** of the user interface **400**. A picture of the telephone selected by the user is displayed in area **408** of the user interface. When the user selects a telephone type the appropriate graphics file is accessed, reading on the claimed “comprising displaying handset specification data from the selected build request,” (abstract, figures 3A and 4, column 2 lines 56-60 and column 5 lines 40-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display a picture of a selected telephone type as taught by Lipsit in the system of Moles et al. and Carroll, as modified by Tordera, in order to provide an efficient provisioning system for mobile stations.

Allowable Subject Matter

9. **Claims 13-28** are allowed.
10. **Claim 34** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime M. Holliday whose telephone number is (571) 272-8618. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER

Jaime Holliday

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Patent Examiner